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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,011	11/01/2001	Roy K. Greenberg	PA-5270-RFB	3255

9896 7590 04/17/2003

COOK GROUP PATENT OFFICE
P.O. BOX 2269
BLOOMINGTON, IN 47402

EXAMINER

PHIOGENE, PEDRO

ART UNIT PAPER NUMBER

3732

DATE MAILED: 04/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,011

Applicant(s)

GREENBERG ET AL. 

Examiner

Pedro Philogene

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,5. 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9,13-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Foster (6,500,182).

With respect to claim 1, Foster discloses a medical grasping device (10) comprising: an elongate control member (11) having an atraumatic distal tip section and a proximal end portion, the elongate grasping member further including a grasping portion (13) proximal the distal tip section; an outer sheath (14) with passageway therethrough surrounding the elongate control member and relatively movable with respect thereto; and a control assembly (29) disposed at a proximal end of the outer sheath and the proximal end portion of the elongate control member and in operative relation thereto for urging the grasping portion from a distal end of the outer sheath and retraction there into; as set forth in column 9, lines 30-50.

With respect to claims 2-9,13-19, Foster discloses all the limitations, as set forth in column 4, lines 50-67; column 6, lines 5-31; column 6, lines 32-42; column 7, lines 15-24, lines 31-41; column 8, lines 61-67 and column 9, lines 1-2; also, as best seen in FIGS:1-21.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foster (6,500,182) in view of Avellanet (6,264,664).

With respect to claim 7, it is noted that Foster teaches all the limitations, except for a connecting block affixed to the control member disposed in a longitudinal slot; as claimed by applicant. However, in a similar Avellanet evidences the use of a connecting block disposed in a slot to move the grasping device in and out of the sheath.

Therefore, given the teaching of Avellanet, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the connecting block and the slot in the device of Avellanet with the control assembly of the device of Foster to facilitate the in and out of the grasping device within the sheath.

Claims 10,11,12,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster (6,500,182) in view of Hillstead (5,098,440).

With respect to claims 10,11,12,20, it is noted that Foster did not teach of wire loops that is substantially circular upon full deployment; as claimed by applicant. However, in a similar art, Hillstead evidences the use of wire loops that are circular

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upon full deployment and having side sections that overlap and touch the vessel wall to engage the object to be retrieved with a greater force.

Therefore, given the teaching of Hillstead, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the design of the device of Hillstead in the device of Foster to engage the object to be retrieved with a greater force.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,653,716	08-1997	Malo et al.
5,376,094	12-1994	Kline
5,993,474	11-1999	Ouchi

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (703) 308-2252. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P Shaver can be reached on (703) 308-2582. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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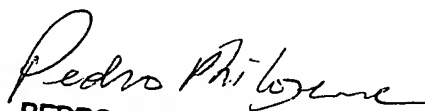
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872-9302 for regular communications and (703) 305-3591 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Pedro Philogene
April 11, 2003


PEDRO PHILOGENE
PRIMARY EXAMINER